THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.14366 of 2006

Dated:14th July, 2006

Between:

J.Rohini.

…..PETITIONER

AND

The Medical Superintendent, C S I Hospital, Nagari, Chittoor District & another.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P.No.14366 of 2006

ORDER:

This writ petition is filed to call for the records in I.D.No.314/2001, dated 06-10-2005, on the file of Industrial Tribunal Cum Labour Court, Ananthapur and quash the same insofar as not awarding back-wages to the petitioner and to consequently direct the 1st respondent to pay the back-wages to the petitioner.

The petitioner was appointed as Aaya in the respondent hospital and worked as such till the hospital closed in the year 1991 and was retrenched. Aggrieved by the said retrenchment, the employees of the hospital filed writ petition before this Court and subsequently at the request of the respondent authorities withdrew the same. The respondent hospital was reopened and all the workers were given appointment and paid wages for 41 months, but not the petitioner. She made several representations, but for one reason or the other the respondent authorities have not considered her case. Questioning the same the petitioner raised an industrial dispute before the Labour Court, Anantapur in
I.D. No.314/2001. The labour court by order dated 6-10-2005 allowed I.D. No. 314/2001 in part directing the respondent authorities to reinstate the petitioner into service as Aaya Class IV employee granting all benefits, except back-wages. The order of the labour Court insofar as not granting back-wages is challenged in this writ petition.

Heard the learned counsel for the petitioner as also the learned Government Pleader for Labour and perused the impugned award of the labour Court.

The labour Court examined the petitioner as W.W.1 and got marked Exs.W.1 to 11 on her behalf, and on behalf of the respondent hospital got examined MW-1, Medical Superintendent of the respondent hospital and got marked Exs.M.1 to M.3.

It is the contention of the learned counsel for the petitioner that the labour Court having directed for reinstatement into service, committed an error in not directing payment of
back-wages. I am unable to agree with the submission of the learned counsel as the petitioner is not a permanent employee and she is a temporary employee.

Admittedly, the petitioner worked as temporary Aaya in the respondent hospital from 1985 till the closure of the hospital in the year 1992 and again from 1999 when it was re-opened till his termination. The labour Court found fault with the authorities for terminating the petitioner from service without issuing any notice. While finding so, the Labour court based on the material produced before it, came to the conclusion that termination is illegal and directed reinstatement of the petitioner into service with continuity of service and attendant benefits, but without back-wages.

Merely because the petitioner was directed to be reinstated into service by setting aside the order of removal it does not mean that he is entitled to back-wages, more so, when he remained out of employment during the period between the date of his removal from service and till he was reinstated by virtue of the impugned order. Back-wages do not follow as a result of the order of removal or termination being set aside. Grant of backwages is not automatic or mechanical, it depends upon facts and circumstances of each case (see **U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey**[1]). Therefore, I see no reason to interfere whatsoever with the award of the labour Court.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

(N.V. RAMANA, J.)

Date:14th July, 2006.
grk

[1] (2006) 1 SCC 479